

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED REEVES,

Plaintiff,

v.

Case No. 4:04-cv-144
HON. R. ALLAN EDGAR

H. GILKEY, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff argues that dismissal of this action is inappropriate because his failure to disclose his previous lawsuits in the form complaint had no relevance to the any court rulings under the Prison Litigation Reform Act. Chief Judge Robert Holmes Bell had issued an injunction which required plaintiff to use the complaint form and complete all sections of that form.

Plaintiff used the form in this case, but failed to complete all sections of that form. Plaintiff purposefully failed to disclose his previous lawsuits and instead, in a deceptive manner, disclosed only one prior lawsuit. Plaintiff failed to disclose his previous lawsuits and failed generally to indicate that he had filed past lawsuits. Since plaintiff had been ordered to complete all

sections of the complaint form, and he consciously chose to disregard that order, dismissal of the complaint without prejudice is appropriate.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

The court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons that the court grants defendants' motion to dismiss, the court discerns no good-faith basis for an appeal. Should the plaintiff appeal this decision, the court will assess the \$255 appellate filing fee pursuant to § 1915(b)(1), *see McGore*, 114 F.3d at 610-11, unless plaintiff is barred from proceeding *in forma pauperis*, e.g., by the "three-strikes" rule of § 1915(g). If he is barred, he will be required to pay the \$255 appellate filing fee in one lump sum.

Dated: *February 21, 2006*

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE